

EXHIBIT 4

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 CHARLESTON DIVISION

- - -

4 IN RE: ETHICON, INC. : MDL NO. 2327
5 PELVIC REPAIR SYSTEM :
6 PRODUCTS LIABILITY :
7 LITIGATION :
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6 : SUPERIOR COURT OF
7 : NEW JERSEY
8 IN RE: : LAW DIVISION -
9 PELVIC MESH/GYNECARE : ATLANTIC COUNTY
10 LITIGATION :
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10 AND VARIOUS OTHER CROSS-NOTICED ACTIONS

- - -

12 Wednesday, September 25, 2013

13 VOLUME II

- - -

15 CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

- - -

18 CONTINUED VIDEOTAPED 30(B)(6) DEPOSITION OF
19 JAMES P. MITTENTHAL

22 GOLKOW TECHNOLOGIES, INC.
23 877.370.3377 ph | 917.591.5672 fax
24 deps@golkow.com
25

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1 RP -- I'm sorry -- RM that records were not being
 2 duplicated for the Ethicon Sarl facility? That's
 3 S-A-R-L.
 4 A That arose from that symptom, although
 5 I believe the CAPA was broader in the scope of what
 6 it addressed.
 7 Q And would you disagree with that CAPA
 8 if it said that the records archive supplier process
 9 was inadequate to ensure safeguarding of paper
 10 records?
 11 A Well, I don't think that I have
 12 conducted an independent investigation or have
 13 reason to agree or disagree with that statement. I
 14 have general knowledge that there was a fire that
 15 resulted in the loss of some paper batch records and
 16 some paper NCRs, which were in the case of the NCRs
 17 later recreated.
 18 Q Your counsel's looking carefully at
 19 this stack of documents to see whether or not I'm
 20 going to use it.
 21 MR. BERNARDO: Actually he's looking
 22 at his watch in relation to those documents.
 23 MR. WALLACE: I just want to make
 24 sure.
 25 Do you want to talk about hold notices

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1 some more? No? Okay. It's all Mr. Grand's for
 2 now.
 3 (Plaintiff's Exhibit No. 1424 was
 4 marked for identification.)
 5 BY MR. GRAND:
 6 Q Good afternoon, Mr. Mittenthal. It's
 7 nice to see you again.
 8 A Good afternoon.
 9 Q I am now going to be asking questions
 10 on behalf of the New Jersey plaintiffs. The same
 11 rules apply with respect to if you need a break,
 12 please let me know. If anything I ask is unclear,
 13 I'll do my best to rephrase it. Just let me know.
 14 Okay?
 15 A Okay.
 16 Q A few minutes ago I marked the binder
 17 we've been referring to this morning as -- also as
 18 Plaintiff's Exhibit 1424. And I would ask you to
 19 turn to Tab 2 of that binder and open up to the
 20 first document in there, which is I believe
 21 Bates-stamped Mittenthal 1273.
 22 A Yes, I see it.
 23 Q And you're familiar with that list;
 24 correct?
 25 A Yes, I am.

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1 Q And we've -- you've previously been
 2 asked questions about this; correct?
 3 A Yes.
 4 Q I just want to sort of make sure some
 5 things are clean in my record. Is it fair to say
 6 looking at this list of hold notices that the first
 7 TVT hold notice was issued on May 22nd, 2003? Is
 8 that correct?
 9 MR. BERNARDO: Object to the form of
 10 the question.
 11 THE WITNESS: The first TVT notice
 12 that I'm aware of that has a relationship to the
 13 subject matter of TVT.
 14 BY MR. GRAND:
 15 Q Okay. And you don't have any reason
 16 to believe that that hold notice was ever rescinded;
 17 correct?
 18 A I have requested as to whether that
 19 notice has been rescinded. I do not have
 20 information that that notice was rescinded.
 21 Q Okay. And while there was subsequent
 22 TVT hold notices circulated or issued, it's fair to
 23 say that the 5/22/2003 hold notice was still in
 24 effect; correct?
 25 A As I mentioned, I have not seen any

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1 material to indicate that it has been rescinded.
 2 Q And with respect to the Prolift
 3 product, looking at the list, would it be correct to
 4 say that the first Prolift hold notice was issued on
 5 April 21st, 2008?
 6 A It would appear so.
 7 Q And you don't have any understanding
 8 that that has been lifted at this point or recalled;
 9 correct?
 10 A As I mentioned, I have inquired about
 11 notices. I have no specific information that any
 12 notice has been lifted.
 13 Q Now, with respect to the litigation
 14 holds, is it your understanding that they were
 15 distributed by e-mail?
 16 A Generally, yes.
 17 Q Okay. And if I recall your testimony
 18 earlier -- and please correct me if I'm summarizing
 19 it inaccurately -- that the litigation holds were
 20 disseminated to a select group of people, typically
 21 department heads, who would then forward it on to
 22 personnel who they believed might have relevant
 23 information?
 24 A I'm not sure I would characterize it
 25 as department heads. The effort would be put forth

50 (Pages 473 to 476)